



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: DCC Computers, Inc.

File: B-244149

Date: May 29, 1991

Roy T. Bondurant for the protester.
Roger H. Ayer, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Where Commerce Business Daily (CBD) notice announcing agency's plans to make sole-source award contains footnote 22--giving other potential sources 45 days to submit expressions of interest showing their ability to meet agency's stated requirements--a potential source must first timely respond to the CBD notice and receive a negative agency response before it can protest the agency's sole-source decision at the General Accounting Office (GAO). GAO will dismiss protest as premature where protest does not indicate that the protester submitted an expression of interest to the agency before filing the protest at GAO.

DECISION

DCC Computers, Inc. protests the Department of the Air Force's announced intent to procure XMENU software on a sole-source basis from VM Systems Group, Inc. DCC contends that the agency should compete its software requirements instead of awarding a sole-source contract.

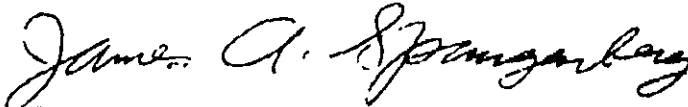
We dismiss the protest as premature.

The agency announced the proposed sole source to VM in the April 19, 1991, Commerce Business Daily (CBD). The CBD synopsis referenced footnote 22 that gave potential sources 45 days to submit expressions of interest showing their ability to meet agency's stated requirements.

We require a protester to submit a timely expression of interest responding to a CBD notice and to receive a negative agency response as a prerequisites to filing a protest challenging an agency's sole-source decision. Keco Indus., Inc., B-238301, May 21, 1990, 90-1 CPD ¶ 490; see also Mine Safety Appliances Co., B-233052, Feb. 8, 1989, 89-1 CPD ¶ 127. This procedure gives the agency an opportunity to reconsider its sole-source decision in light of a serious offeror's preliminary proposal, while limiting challenges to the agency's sole-source decision to diligent potential offerors. Fraser-Volpe Corp., B-240499 et al., Nov. 14, 1990, 90-2 CPD ¶ 397.

DCC's May 21, 1991, protest does not indicate that it submitted an expression of interest to the agency before protesting to our Office. Consequently, DCC's protest to our Office is premature.^{1/}

The protest is dismissed.



James A. Spangenberg
Assistant General Counsel

^{1/} By our calculations, DCC has until June 3, 1991, to submit an expression of interest to the Air Force detailing its ability to provide the required software. Should the Air Force reject DCC's expression of interest and proceed with the sole-source procurement of the software, DCC may protest that determination to our Office if it still believes it has grounds for protest.